

KING & SPALDING

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March 16, 2022

VIA ELECTRONIC FILING

The Honorable Vernon Broderick
United States District Court
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

APPLICATION GRANTED

SO ORDERED 

VERNON S. BRODERICK

U.S.D.J. 03/17/22

Petitioners are directed to submit a status update on or before
April 1, 2022.

Re: *Ex Parte Application of Agency for Policy Coordination on State Prop., et al.*, No.
21-mc-178 (VSB)

Dear Judge Broderick:

I write respectfully on behalf of Petitioners the Agency for Policy Coordination on State Property, Erdenes Oyu Tolgoi LLC, and Erdenet Mining Corporation to address certain assertions made in the February 28 letter from Intervenor Sukhbaatar Batbold (“Mr Batbold”) and to ask that deadlines in the matter be stayed. We requested Mr. Batbold’s position on the proposed stay last week but have not yet received a response from his counsel.

As Mr. Batbold’s counsel noted in his February 28 letter, an individual from the Office of the Prosecutor General (“OPG”) has written several letters purporting to terminate our firm’s standing authorization to, among other things, “seek in all relevant courts orders to freeze or injunct (or any other relief necessary to freeze or injunct) any and all assets directly or indirectly/beneficially owned from time to time by . . . Batbold Sukhbaatar, which are located or held in, or otherwise linked to, the jurisdictions outside of Mongolia as we have agreed upon.” Dkt. 13-9; see also Dkts. 12-1; 13.

As we have expressed to Mr. Batbold’s counsel in various correspondence, the letters purporting to terminate King & Spalding’s authorization arise out of troubling circumstances. For starters, our firm has had no prior contact with this individual who now purports to terminate our firm’s mandate, nor has he previously been involved in the OPG’s efforts to recover assets stolen from the Mongolian State by high-profile politicians like Mr. Batbold. Further, the letters appear to be the result of extensive communications between Mr. Batbold’s counsel and this individual, at least some of which has never been shared with our firm. More important, the letters do not even attempt to reconcile the purported termination with the extensive record of documentary evidence of official corruption offered in this case and around the world (see, e.g., Declaration of

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Sarah Walker, Dkt. 6), nor do they acknowledge (let alone explicitly retract) previous explicit authorizations from this individual's presumptive superior – the Prosecutor General himself.

If taken at face value, the letters would appear to signal that the OPG has abruptly shifted its priorities—from years of diligently rooting out corruption among public officials, to now urgently seeking to discharge approximately \$70 million in assets that it had frozen for the benefit of the Mongolian people, including high-end real estate in London, New York, and Phuket, beneficially owned by Mr. Batbold. Needless to say, we cannot take such letters at face value, particularly when they appear to have been prompted by the very person whose assets are frozen. Without divulging attorney-client communications, we can state that we are conferring directly with the relevant Mongolian authorities to understand the circumstances of these letters and affirm the explicit authorization we have long been operating under.

We respectfully ask that all deadlines in the matter be stayed pending our investigation into the matter.¹ We can provide an update to the Court no later than April 1.

Sincerely,

/s/ J. Emmett Murphy

J. Emmett Murphy

cc: All Counsel of Record (via ECF)

¹ Intervenor Batbold's current deadline to respond to the Petition is March 25, 2022 (Dkt. 27). A deadline for Petitioners' reply has not yet been rescheduled.